In the High Court of Judicature at Madras

Dated: 16/09/2003

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The Honourable Mr.Justice A.K.RAJAN

Writ Petition No.3259 of 2000

Pacific Roofings (P) Ltd.
Chitterimedu villge
Timmasamundram Post ..... Petitioner

-Vs-

1. The Tamil Nadu Electricity Board
rep. by its Chairman
Anna Salai, Chennai.2.
2. Executive Engineer, O&M North
Tamilnadu Electricity Board
Kanchipuram.
3. Assistant Executive Engineer
Rural North
Kanchipuram
Tamilnadu Electricity Board
Kanchipuram. ..... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for the issue of a writ of Certiorari as stated therein.

For petitioner : Mr.Satish Parasaran

For respondents : Mr.G.Vasudevan

:O R D E R

The petitioner has filed the above writ petition praying to issue a writ of Certiorari to call for the records comprised in proceedings in Lr.No.EE/O&M/N/K/PI/FD/D.739/2000 dated 10.02.2001 and quash the same.

2. The brief facts that are necessary for the disposal of the above writ petition is as follows: The petitioner herein is the electricity consumer. It is a factory, situated in Timmasamundram, Kanchipuram Taluk, Chingleput District. The petitioner factory is a manufacturer of Asphalt Roofing Sheets under the name and brand of "Bestroof". While so, in the year 1996, that is, on 25.1.1996 during inspection by the authorities of the Electricity Board, theft of electricity detected in the factory and, therefore, a notice was issued to the petitioner factory on

31.01.1996 by the respondents Board. Challenging the same, the petitioner factory filed W.P.No.1657 of 1996 and the Division Bench of this Court quashed the notice. Again on 10.02.2000 the impugned notice was issued by the respondent which reads as follows: "The committement of violation was detected by the APTS on 22.8.98 subsequent to the detection of theft on 25.1.96 with in five years period in the HT SC No.119 at Chitterimedu. As per Clause 9.01 if 37 Schedule Part I-A terms and condition of supply of Electricity, this firm is indulged in violation for second time with in a period of five years. Hence, the service is liable to be kept under disconnection for a period of three month. Hence it is informed that your service HT SC Bo.110 will be disconnected after expiry of this 7 days notice. ..." Therefore, the present writ petition has been filed to quash the proceedings.

3. Learned counsel appearing for the petitioner factory submitted that inasmuch as in W.P.No.1657 of 1996, the Division Bench of this Court has quashed the notice issued by the respondent, that the first incident referred to in that notice is no longer in existence. Therefore, that cannot be considered as first incident. But in the present impugned notice, the first incident has also been referred to stating that on 22.8.98 once again violations were detected, earlier violations was theft of electricity on 25.1.96. Therefore, within a period of five years, the petitioner has violated the agreement for the second time and, therefore, he was informed that the petitioner's HT SC NO.119 will be disconnected after the expiry of the 7 days notice.

4. Learned counsel further submitted that when the first incident has already been quashed, that cannot be referred to in the second incident and the second incident shall be treated as the first incident. For the violation of the first incident, service connection cannot be disconnected under that clause, and hence, the impugned notice dated 10.02.2000 is liable to be set aside.

5. In the counter filed by the respondents Board it is stated that though notice dated 25.1.96 was quashed, subsequent to that second show cause notice was issued on 22.8.98 wherein the first incident is legally referred to and the same is sustainable. Hence, the subsequent violation occurred within a period of five years as per clause, has become the second violation. Therefore, there is no illegality in the second cause notice. Hence, the writ petition is liable to be dismissed.

6. Learned counsel appearing for the Electricity Board submitted that though the Division Bench of this Court quashed the notice dated 25.1.1996 on 31.1.1996, that was only on technical ground and, therefore, the second notice which is impugned in the above writ petition, has been issued on 22.8.98. During the pendency of the proceedings with respect to the theft on 25.01.1996 the second violation has been detected on 6.8.1998. Therefore, it has been referred to as second violations. Therefore, there is no illegality in the argument of the learned counsel for the respondent.

7. Further, it is seen that even on 1.2.2000 another proceedings were issued by the respondents Electricity Board directing the petitioner factory to pay compensation charges to the tune of Rs.16,12,557/-. That order has not been challenged by the petitioner. On the other other hand only second show cause notice is challenged before this Court in the above writ petition. 8. Learned counsel for the respondent, at this juncture submitted that now since the factory has not paid the electricity charges regularly, the service connection has been disconnected and presently there is no service connection to the petitioner factory. Whatever that may be in so far as the present petition is concerned, the impugned order dated 10.02.2000 cannot be quashed as there is no violation of any of the Rules. Therefore, the writ petition has no merits and is liable to be dismissed. In the result, the writ petition is dismissed. No costs.

Index :Yes
Internet :Yes

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To

1.The Tamil Nadu Electricity Board rep. by its Chairman Anna Salai, Chennai.2.

2.Executive Engineer, O&M North Tamilnadu Electricity Board Kanchipuram.

3. Assistant Executive Engineer Rural North Kanchipuram Tamilnadu Electricity Board Kanchipuram.

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